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Attorney for Plaintiff/Counterdefendant, MARY STRUBLE

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

MARY STRUBLE, As Conservator for CS,

Plaintiff,

v.

FALLBROOK UNION HIGH SCHOOL
 DISTRICT, a Local Educational Agency
 Defendant.

FALLBROOK UNION HIGH SCHOOL
 DISTRICT,

Counterclaimant,

v.

MARY STRUBLE, As Conservator for CS,

Counter-Defendant,

CASE NO.: 07 CV 2328 LAB (CAB)

**DECLARATION OF ELLEN DOWD, ESQ.
 IN SUPPORT OF MOTION TO
 SUPPLEMENT ADMINISTRATIVE
 RECORD**

Date: May 23, 2008

Time: 9:00 ,a.m.

Magistrate Judge: Hon. Cathy Ann

Bencivengo

Judge: Larry Burns

1. I, Ellen Dowd am over 18 years of age, and am attorney of record for Plaintiff,
 MARY STRUBLE, on behalf of C.S. ("Student").

2. I make this declaration of my own personal knowledge, and, if called as a witness,
 could and would testify competently hereto.

3. I make this declaration in support of Plaintiff's motion to Supplement the
 Administrative Record.

1 4. On November 20, 2007 the decision in the underlying Due Process Hearing was
2 rendered. The Decision held that Defendant, FALLBROOK UNION HIGH SCHOOL
3 DISTRICT, ("the District") violated IDEA by not offering Student an opportunity to earn a high
4 school diploma, and by not advising Student and his parents of this until June of his senior year.

5 5. The Decision erroneously delegated the award of compensatory education to the
6 IEP Team, including the very same District personnel who had violated Student's rights in the
7 past.

8 6. Correspondence between the District and Student was exchanged after the
9 Decision, and the IEP team meeting was held on February 7, 2008. The only placement offer
10 considered by the entire IEP Team at the IEP was Fallbrook High School, the public school
11 where Student was previously denied a free, appropriate public education (FAPE). In fact, the
12 majority of time at this UEP was spent discussing how Student would pass the California High
13 School Exit exam (CAHSEE). This was not an issue in the underlying due process hearing, and
14 there was directive by the Administrative Law Judge to discuss it.

15 7. Fusion Learning Center had reviewed Student's records and prepared a written
16 statement to shared at the IEP Meeting concerning how Fusion could attempt to meet Student's
17 needs.

18 8. Additionally, to determine the appropriate course of study for Student, when an
19 opening for Student to attend Fusion occurred in April, 2008, Student started a trial period of 2
20 weeks from April 15, 2008-April 30, 2008. He made academic and social progress during this
21 period, and has been accepted for May, 2008. Student's ability to attend Fusion, or any non-
22 public school is dependent upon his parents' ability to pay. Student would like to have this issue
23 resolved quickly to avoid any further interruption in his education.

24 9. The inclusion of these documents is relevant to the disposition of this case. These
25 documents are additional to and not repetitious of any evidence previously admitted.

26 10. There has been reference made to the pendency of this case in a class action filed
27 in which Plaintiff in this case is currently the named Plaintiff (class representative) in the class
28 action USDC, SDCA Case No. 08 CV 0226 W (AJB). However, these are tow completely

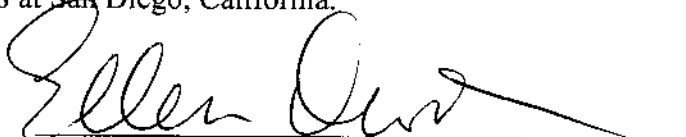
1 distinct cases, as the relief sought in the instant case would directly benefit only Student,
2 whereas, the relief sought in the class action is intended to benefit all special education students
3 in the State of California.

4 11. No document filed in the class action is sought to supplement the record herein.
5 No pleading, motion or ruling in the class action should in any way affect Student' ability to
6 obtain relief sought herein.

7 12. I respectfully request that the court permit plaintiff to supplement the record with
8 the lodged documents, and to continue to supplement the record with similar documents until the
9 beginning of briefing.

10 I declare under penalty of perjury under the laws of the United States and the State of
11 California that the foregoing is true and correct.

12 Executed this 1st day of May, 2008 at San Diego, California.

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15 Ellen Dowd
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